

as -- 89. A device according to claim 88, wherein the outlet channel opens to the outside in a direction that is substantially parallel to the axis of the receptacle. --

-- 90. A device according to claim 88, wherein the outlet channel opens to the outside in a direction that is substantially perpendicular to the axis of the receptacle. --

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**REMARKS**

The objection to the drawing is noted and has been corrected. A separate letter to the draftsman is enclosed. The specification has been corrected accordingly and lines 1 to 3 on page 6 have been deleted. The abstract has also been corrected. Claims 8, 9, 21 and 24 to 27 have been objected to. Claims 8, 9 and 21 have been cancelled. Claims 24 to 27 have been amended to avoid rejection as indefinite.

Claims 1 to 3, 5 to 7, 13 and 24 have been rejected as anticipated by Gregoire '569.

Claim 1 recites *inter alia*:

- "... first and second bearing surfaces situated respectively at opposite ends of the compressible portion so as to enable a user to exert pressure along the axis of the receptacle to move said bearing surfaces towards each other and compress the compressible portion,
- the first bearing surface being situated at the endpiece or close thereto, so that the user can dispense the substance by holding the device in one hand, and bringing that hand into contact with the surface onto which the substance is to be applied."

Gregoire discloses a container including a body (12) delimiting a first chamber (20) and a second chamber (22), each of the chambers intended to contain a product. The second chamber (22) is connected to the first chamber (20) by a product-flow passage (24). A device (26) is

provided for obturating the passage (24). The obturating device (26) is mounted so as to be able to move axially between a first position for obturating the passage (24) and a second position for freeing the passage (24) for the purpose of mixing the products. A product dispensing device (50) is mounted on the container. The obturating device (26) is borne by the wall of one of the chambers (22). The wall includes an extensible region (46) which during its extension acts to free the passage (24).

In Gregoire, the bellows (46) should be in the extended configuration to enable the dispensing to take place.

The device is thus used in the configuration of figure 2 and not the configuration of figure 1.

This means that during use, the distance between the rear end (14) of the device and the seat (36) is important.

The substance cannot be dispensed in the configuration of figure 1 since the plug (26) is engaged in the neck (24).

There is no disclosure in Gregoire that the distance between the rear end (14) and the seat (36) would be small enough to enable a user to grip the device with the fingers of one hand so as to be able to apply a pressure along the longitudinal axis X of the device.

On the contrary, Gregoire teaches (see column 4, lines 42-46) that the product is dispensed by turning the device upside down and exerting pressure on the upper end region (50) of the cap (58).

Accordingly, Gregoire does not teach nor suggest a device configured to enable the user to dispense the product by exerting a pressure along the axis of the receptacle in a convenient manner.

Thus, Gregoire does not disclose, nor suggest the above cited features of claim 1.

Claim 28 has been rejected under 35 USC 103(a) as being unpatentable over Gregoire in view of Savary (US 2,757,824).

*"... the device including:*

- *first and second surfaces situated respectively at opposite ends of the compressible portion so as to enable the user to exert pressure along the axis of the receptacle to move said surfaces towards each other and compress the compressible portion,*  
- *wherein the endpiece includes an outlet channel that is off-center and has an axis that is substantially parallel to the axis of the receptacle, and wherein the first surface intersects on the axis of the receptacle”.*

As explained above (see arguments regarding claim 1), Gregoire lacks the recitation of *“first and second bearing surfaces situated respectively at opposite ends of the compressible portion so as to enable the user to exert pressure along the axis of the receptacle to move said bearing surfaces towards each other and compress the compressible portion”*, as recited in claim 28.

Savary discloses dispensing closures for receptacles, the dispensing closures having a sealing part attached to the closure by means of a flexible connection which protects against loss of the sealing part.

Savary also discloses that the use of a flexible closure member (23) permits dispensing of small quantities of the material by *“suitable pressure on the exterior of the cup shaped closure member (23)” (column 3, line 48-51).*

Savary thus uses the closure member as a bearing surface. This means that if the closure member is mounted on a compressible portion, Savary teaches to apply the pressure on the compressible portion and not along the axis of the receptacle using the closure member as a bearing surface.

Savary thus does not remedy to the deficiencies of Gregoire.

Claims 2-3, 5-7, 13 and 24 have been rejected under 35 USC 102 (b) as being anticipated by Gregoire.

However, as explained above, the present invention as defined in claim 1 patentably defines over Gregoire and for this reason alone claims 2-3, 5-7, 13 and 24 which contain also all

limitations of claim 1 patentability define over Gregoire. Claim 24 is an independent method claim and is allowable for the reasons set forth above in the discussion of claim 1.

Claims 10 and 12 have been rejected under 35 USC 103(a) as being unpatentable over Gregoire in view of Hundertmark et al.

Claims 10 and 12 are dependent upon claim 5 which is patentable over Gregoire for the reasons given above.

Claims 14 and 15 have been rejected under 35 USC 103(a) as being unpatentable over Gregoire in view of Savary.

Claims 14 and 15 are dependent upon claim 1 and thus are believed to be allowable for the same reasons as claim 1.

Claim 16 has been rejected under 35 USC 103(a) as being unpatentable over Gregoire in view of Savary as applied to claim 14 and further in view of Andris.

Claim 16 is dependent upon claim 14 and is allowable for the same reasons as claim 14.

Claim 22 has been rejected under 35 USC 103(a) as being unpatentable over Gregoire in view of Yamamoto.

Claim 22 is dependent upon claim 1 and for this reason alone is allowable.

Claim 27 had been rejected under 35 USC 103(a) as being unpatentable over Gregoire in view of Musel.

Claim 27 is dependent upon claim 1, which is allowable for the reasons stated above, and thus claim 27 should be allowable.

The indicated allowance of claims 25 and 26 is appreciated. These claims have been rewritten in independent form and to avoid indefiniteness.


New claims 29 to 90 are presented to adequately claim the invention in view of the prior art cited. These claims are patentable over the prior art cited by the examiner.

The prior art cited but not applied by the examiner has been considered but is deemed no more pertinent than the cited prior art.

For the foregoing reasons, all claims are in condition for allowance and such action is respectfully requested.

**The Commissioner is hereby authorized to charge the fee for all additional claims, if any, or any other fee which may be required while this application is pending in the Patent Office, or credit any overpayment, to Account No. 16-2230. A duplicate copy of this sheet is enclosed.**

Respectfully submitted,

  
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Dated: March 4, 2003

LJB:dp

Enclosure: Marked Version to Show Changes

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**MARKED VERSION TO SHOW CHANGES**

**In the Abstract**

**ABSTRACT OF THE DISCLOSURE**

The invention relates to a packaging and applicator device comprising a receptacle having a compressible portion and a dispenser endpiece. The device has first and second bearing surfaces situated at respective ends of the compressible portion so as to enable a user to exert pressure along the axis of the receptacle so as to move [said] the bearing surfaces towards each other and compress the compressible portion. The first bearing surface is situated on the endpiece or in the vicinity thereof, so that the user can dispense the substance while holding the device in one hand and bringing [said] his or her hand into contact with the surface onto which the substance is to be applied.

**In the Specification**

Please cancel lines 1 to 3 of page 6.

Please correct line 36, page 13, through line 4 of page 14 as follows:

By way of example, Figure 13 is an axial section view of a device [140] 140' which differs from that shown in Figure 1 by the fact that the endpiece 17 has been replaced by an endpiece 141 which has two dispenser channels 142, each defined by a respective conical portion 143.

Please cancel lines 1 to 3 of page 6 as follows:

[The receptacle 2 has a constricted portion 5 through which the bottom and top containers 3 and 4 can communicate.]

**In the Claims**

Please amend the claims as follows:

1. (Amended) A device for packaging and applying a substance[, the device] comprising:  
a receptacle having an axis and comprising, a compressible portion and a dispenser endpiece, [the device including]  
first and second bearing surfaces situated respectively at opposite ends of the compressible portion, so as to enable a user to exert pressure along the axis of the receptacle to move said bearing surfaces towards each other and compress the compressible portion,  
the first bearing surface being situated [on] at the endpiece or close thereto, so that the user can dispense the substance by holding the device in one hand and bringing that hand into contact with the surface onto which the substance is to be applied.

Please cancel claims 8, 9, 11, 17, 18, 19, 20, 21 and 23.

Please amend claim 24 as follows:

24. (Amended) [The use of a device according to claim 1] A method of dispensing a product onto a surface comprising:  
dispensing said product using a device comprising:  
a receptacle comprising  
a compressible portion and  
a dispenser endpiece  
first and second bearing surfaces situated respectively at opposite ends of the compressible portion, so as to enable a user to exert pressure along the axis of the receptacle to move said bearing surfaces towards each other and compress the compressible portion, the first bearing situated at the endpiece or close thereto,  
wherein during said dispensing the device is hold in one hand and that hand is being brought into contact with the surface onto which the substance is to be applied, with the dispenser endpiece pointing downwards.

Please amend claim 25 as follows:

25. (Amended) [The use of a device according to claim 1,] A method of dispensing a product onto a surface comprising:  
dispensing said product using a device comprising:  
a receptacle comprising a compressible portion and a dispenser endpiece,  
first and second bearing surfaces situated respectively at opposite ends of the  
compressible portion, so as to enable a user to exert pressure along the axis of the receptacle to  
move said bearing surfaces towards each other and compress the compressible portion,  
wherein during said dispensing the device is hold in one hand and that hand is  
being brought into contact with the surface onto which the substance is to be applied, with  
pressure against the first bearing surface being applied with the thumb and pressure against the  
second bearing surface being applied by the middle and index fingers.

Please amend claim 26 as follows:

26. (Amended) A [method] use according to claim 25, in which the middle and index  
fingers are placed on either side of a constricted portion of the receptacle.

Please amend claim 27 as follows:

27. (Amended) [The use of a device according to claim 1] A method of dispensing a  
product onto a surface comprising:  
dispensing said product using a device comprising:  
a receptacle comprising,  
a compressible portion and  
a dispenser endpiece,  
first and second bearing surfaces situated respectively at opposite ends of the  
compressible portion, so as to enable a user to exert pressure along the axis of the receptacle to  
move said bearing surfaces towards each other and compress the compressible portion,  
the first bearing surface being situated at the endpiece or close thereto,



wherein during said dispensing the device is hold in one hand and that hand is being brought into contact with the surface onto which the substance is to be applied, to apply a substance to the hair and/or to the scalp.

Please amend claim 28 as follows:

28. (Amended) A device for packaging and applying a substance, the device comprising:

a receptacle having [havind] an axis and comprising,

a compressible portion, and

a dispenser endpiece, wherein said endpiece includes an outlet channel that is off-center and has an axis that is substantially parallel to the axis of the receptacle,

[the device including]

first and second surfaces situated respectively at opposite ends of the compressible portion, so as to enable a user to exert pressure along the axis of the receptacle to move said surfaces towards each other and compress the compressible portion, and wherein [the endpiece includes an outlet channel that is off-center and has an axis that is substantially parallel to the axis of the receptacle, and wherein] the first surface intersects on the axis of the receptacle.